REMARKS

In paragraph 2 of the Final Office Action, the Examiner stated that Applicants' arguments with respect to the rejected claims under 102(b) and 103(a) in view of the cited references "have been fully considered and are persuasive."

In the present Final Office Action, the Examiner has introduced new grounds of rejections in view of the same previous rejections with the addition of case law (*In re Wolfe*) to show it would have been obvious to integrate the access authorization indicator into the software program itself. The Examiner has not performed a new search. Nor has the Examiner based the new rejections on new references. Applicants traverse these new rejections. Applicants have not amended the claims.

Applicants respectfully submit that the Examiner's new rejections are improper in that the Examiner's rejections are based on mere conclusory statements without any articulated reasoning or rational underpinning to support the legal conclusion of obviousness. See *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S.__ (2007); citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). Here, the Examiner's conclusions regarding obviousness is based on *dicta* in an old case that is not controlling on the issue of obviousness, particularly in view of the Supreme Court's decision in *KSR*.

In *KSR*, the court noted that "when the prior art teaches away from combining certain known elements, the discovery of a successful means of combining them is more likely to be nonobvious." *KSR* at 12, citing *United States v. Adams*, 383 U.S. 39, 50-51 (1966). Here, Applicants' claimed authorization indicator in the software program teaches away from the distributed computing systems of *Wyman* and *Ross*. *Wyman* and *Ross* were solving different problems then solved by the Applicants. Specifically, *Wyman* and *Ross* were concerned with

administering a centralized software licensing policy for distributed software components running on a distributed computing system. See, e.g., *Wyman*, 2:3-35. By contrast, Applicant's were concerned with licensing multiple applications running on a single computing system to use software components (e.g., library resources) running on the same computing system. Thus Applicants clearly teach away from *Wyman* and *Ross*.

In paragraph 4 of the Final Office Action, the Examiner argues that Applicants' claimed authorization indicator provides a "benefit of allowing the software to be installed and used on an isolated computer, i.e., one that does not have connection to the internet or other communication connections in order to verify authorization."

However, in *KSR* the court stated:

> The proper question to have asked was whether a pedal designer of ordinary skill, facing the wide range of needs created by developments in the field of endeavor, would have seen a benefit to upgrading Asano with a sensor.

KSR at 20.

Applying the logic of the court's question to this application, the proper question is whether *Wyman* or *Ross* (both of which are designers of ordinary skill) would have seen a benefit to not connecting to the Internet or other communication connections to verify authorization. Since *Wyman* and *Ross* teach a network-based license verification solution, *Wyman* and *Ross* would not have seen a benefit to non-networked-based license verification solution, since a non-networked-based license verification solution would not have worked in a distributed computing system.

For the foregoing reasons, Applicants respectfully request that the Examiner withdrawal his new 103 rejections and allow all pending claims of the subject application.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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/Kirk A. Gottlieb/
Kirk A. Gottlieb
Reg. No. 42,596

PTO Customer No. 26183
Fish & Richardson P.C.
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

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